

### **§ 2220. Applicability.**

This article shall apply to all aftermarket parts which are sold, offered for sale, or advertised for sale for use on motor vehicles which are subject to California or federal emissions standards. To the extent applicable, the results of any tests conducted pursuant to Article 1 may be used in total or partial fulfillment of the requirements of this article.

### **§ 2221. Replacement Parts.**

(a) Any replacement part subject to the provisions of this article shall be presumed to be in compliance with this article unless the executive officer makes a finding to the contrary pursuant to Section 2224(a).

(b) The manufacturer of any replacement part subject to the provisions of this article shall maintain sufficient records, such as performance specifications, test data, or other information, to substantiate that such a replacement part is in compliance with this article. Such records shall be open for reasonable inspection by the executive officer or his/her representative. All such records shall be maintained for four years from the year of manufacture of the replacement part.

### **§ 2222. Add-On Parts and Modified Parts.**

(a) As used in this section, the terms "advertise" and "advertisement" include, but are not limited to, any notice, announcement, information, publication, catalog, listing for sale, or other statement concerning a product or service communicated to the public for the purpose of furthering the sale of the product or service.

(b)(1) Except for publishers as provided in subsection 3, no person or company doing business solely in California or advertising only in California shall advertise any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system unless such part, apparatus, or mechanism has been exempted from Vehicle Code section 27156, and the limitations of the exemption, if any, are contained within the advertisement in type size to give reasonable notice of such limitations.

(2) Except for publishers as provided in subsection 3, no person or company doing business in interstate commerce shall advertise in California any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system and not exempted from Vehicle Code section 27156 unless each advertisement contains a legally adequate disclaimer in type size adequate to give reasonable notice of any limitation on the sale or use of the device, apparatus, or mechanism.

(3) No publisher, after receipt of notice from the state board or after otherwise being placed on notice that the advertised part is subject to and has not been exempted from the provisions of Vehicle Code section 27156, shall make or disseminate or cause to be made or disseminated before the public in this state any advertisement for add-on or modified parts subject to the provisions of this article, which have not been exempted from Vehicle Code section 27156, unless such advertisement clearly and accurately states the legal conditions, if any, on sale and use of the parts in California.

(4) The staff of the state board shall provide, upon request, model language which satisfies these requirements.

(c) No person shall advertise, offer for sale, or install a part as a motor vehicle pollution control device or as an approved or certified device, when in fact such part is not a motor vehicle pollution control device or is not approved or certified by the state board.

(d) No person shall advertise, offer for sale, sell, or install an add-on or modified part as a replacement part.

(e) The Executive Officer may exempt add-on and modified parts based on an evaluation conducted in accordance with the "Procedures for Exemption of Add-on and Modified Parts," adopted by the state board on November 4, 1977, as amended June 1, 1990.

(f) Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from Vehicle Code section 27156 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle model and work performed if applicable. Such records shall be open for reasonable inspection by the Executive Officer or his/her representative. All such records shall be maintained for four years from the date of sale or installation.

(g) A violation of any of the prohibitions set forth in this section shall be grounds for the Executive Officer to invoke the provisions of section 2225.

(h)(1) Prior to January 1, 2009, the Executive Officer shall exempt new aftermarket catalytic converters from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters" as adopted by the state board on August 19, 1988.

(2) On or after January 1, 2009, the Executive Officer shall exempt new aftermarket catalytic converters from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for New Aftermarket Catalytic Converters" as adopted by the state board on October 25, 2007.

(3) No person shall install, sell, offer for sale or advertise, any new aftermarket catalytic converter in California unless it has been exempted pursuant to the procedures as provided in this subsection.

(4) For the purposes of this regulation, a new aftermarket catalytic converter is a catalytic converter which is constructed of all new materials, is not a replacement part as defined in Title 13, California Code of Regulations, section 1900, and is not an original equipment catalytic converter. A catalytic converter which includes any new material or construction not equivalent to the materials or construction of the original equipment catalytic converter (e.g., an original equipment catalytic converter can with a new non-original equipment substrate) shall also be considered a new aftermarket catalytic converter.

(i)(1) On or after July 1, 2008, or after 30 days from the date of filing of this subsection with the Secretary of State, whichever is later, no person shall install, sell, offer for sale, or advertise any used, recycled, or salvaged catalytic converter in California.

(2) Prior to July 1, 2008, or 30 days from the date of filing of this subsection with the Secretary of State, whichever is later, no person shall install, sell, offer for sale or advertise, any used, recycled, or salvaged catalytic converter in California unless the catalytic converter has been exempted pursuant to the "Procedures for Exemption of Add-On Parts and Modified Parts," adopted by the state board on November 4, 1977, as amended June 1, 1990.

(3) For the purposes of this regulation, a "used catalytic converter" is a catalytic converter which is not a new aftermarket catalytic converter as defined in Subsection (h)(4), or a replacement part as defined in section 1900.

(j) The Executive Officer shall exempt aftermarket critical emission control parts on highway motorcycles from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles," as adopted on January 22, 2009, which is incorporated by reference herein.

**§ 2223. Specific Criteria. [Repealed]**

#### **§ 2224. Surveillance.**

(a) Replacement parts. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit any records relating to such part which are maintained pursuant to section 2221(b) above. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. If, after a review of all records submitted by the manufacturer and of the results of any tests conducted by the state board's staff, the executive officer finds that such part is not in fact a replacement part, the executive officer may invoke section 2225. Replacement parts evaluated pursuant to this section shall be compared with the specifications contained in the applicable vehicle manufacturer's application for certification.

(b) Add-on parts and modified parts. The executive officer may order, for cause, the manufacturer of any add-on part or modified part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. In-use performance will also be evaluated. This will include Inspection and Maintenance requirements and compliance with onboard diagnostic system regulations. If, after a review of the results of any tests or evaluations conducted by the state board's staff and of any information submitted by the manufacturer, the executive officer finds that an add-on part or a modified part does not conform to the "Procedures for Exemption of Add-on and Modified Parts," the executive officer may invoke section 2225.

#### **§ 2225. Enforcement Action.**

(a) When this section is invoked pursuant to other sections of this article, the executive officer may issue a cease and desist order and may require the person to submit a plan for correcting any deficiencies found by the state board. The executive officer may order any of the actions contained in the plan, and/or may declare a part to be not in compliance with Vehicle Code Section 27156 unless he/she finds the plan adequate to correct the deficiencies found by the state board. The plan may be required to include such corrective actions as the cessation of sale of non-complying parts, the recall of any non-complying parts already sold, and corrective advertising to correct misleading information regarding the emission control capabilities of the device and to ensure compliance with California's laws. The executive officer may also seek fines for violations of Vehicle Code Section 27156, or other laws or regulations, as applicable.

(b) When this section is invoked by the executive officer on either his/her own initiative or in response to complaints received, an investigation may be made by the executive officer or his/her representative to gather evidence regarding continuing violations of this article by any person engaged in the business of advertising, offering for sale, selling, or installing an add-on or modified part.

(c) Any person against whom enforcement action (other than the filing of an action in court) is initiated pursuant to this section may request a public hearing to review the enforcement action.

(d) Nothing in this article shall prohibit the executive officer from taking any other action provided for by law, including the prosecution of an action in court.